

REMARKS

The application is directed to a picking apparatus wherein the picking apparatus reduces the stress and strain on an individual (the picker) during the picking operation. See page 3, lines 4 – 10. Other advantages of the invention are shown on page 10.

Applicant wishes to thank the Examiner for his indication that Claims 12 and 14-16 would be allowable if rewritten in independent form including the limitations of the baseclaim and any intervening claims.

Priority Document

Applicant is submitting herewith a certified copy of the priority document in German as filed with the German Patent Office.

Information Disclosure Statement

Applicant is submitting herewith an Information Disclosure Statement. Applicant hereby makes of record the references listed on the accompanying Form PTO-1449 Information Disclosure Citation for consideration by the Examiner in connection with the examination of the above-identified patent application. Copies of the references are enclosed.

CLAIMS REJECTIONS UNDER 35 USC § 112, SECOND PARAGRAPH

In response to the Examiner's rejection of Claim 21 as being indefinite under 35 USC § 112, second paragraph, Applicant has cancelled Claim 21. In response to the Examiner's rejection of Claim 19 as being indefinite under 35 USC § 112, second paragraph, Applicant respectfully requests that the Examiner withdraw the rejection. In particular, the Examiner has asserted that the phrase "standing seat" is indefinite. However, the term is defined at page 5, lines 4 –5 of the specification and shown in Figure 1, No. 32. The specification states that "The driver's seat is designed as a standing seat for an ergonomic position during travel" and Figure 1 shows the structure of the standing seat wherein the operator of the apparatus remains in a standing position such as a seat that might be used by a dentist. In view of the description and Figure 1, the term "standing seat" is not indefinite and the Examiner's rejection should be withdrawn.

PRIOR ART REJECTIONS

In response to the Examiner's rejection, under 35 USC § 103, of Claims 1-4, 6, 10 and 11 as being unpatentable over U.S. Patent No. 4,439,102 to Allen (hereinafter "Allen") in view of U.S. Patent No. 4,395,189 to Munten (hereinafter Munten) and of Claim 5 as being unpatentable over Allen in view of Munten and further in view of U.S. Patent No. 4,252,497 to Burt (hereinafter "Burt"), Claims 7, 13 and 17 as being unpatentable over Allen in view of Munten and further in view of U.S. Patent No. 5,953,234 to Singer et al (hereinafter "Singer"), Claims 8 and 19 as being unpatentable over Allen in view of Munten and further in view of U.S. Patent No. 5,044,472 to Dammeyer et al. (hereinafter "Dammeyer"), Claim 9 as being unpatentable over Allen in view of Munten and further in view of Dammeyer and further in view of Singer, Claims 18 and 20 as being unpatentable over Allen in view of Munten and further in view of U.S. Patent No. 4,252,217 to Benjamin (hereinafter "Benjamin") and Claim 21 as being unpatentable over Allen in view of Munten and further in view of U.S. Patent No. 5,002,449 to Kita et al. (hereinafter "Kita"), Applicant respectfully traverses the rejections. In particular, the prior art cited by the Examiner does not render the claims of the application unpatentable for the reasons set forth below. Therefore, Claims 1- 20 and _____ 22 are allowable over the prior art cited by the Examiner.

Claims

The claims of the application are directed to a picking apparatus. For example, Claim 1 recites a picking apparatus having a vehicle capable of traveling along the picking front of the pallet rack and having a first lifting device with a height-adjustable picker carrying device for the picker and having a second lifting device with a height-adjustable pallet carrying device for an order pallet, wherein the picker carrying device and the pallet carrying device are positionable heightwise relative to the respective retrieval position independently of one another.

Independent Claim 22 recites a picking apparatus having a vehicle capable of traveling along the picking front of the pallet rack and having a first lifting device with a height-adjustable picker carrying device for the picker and having a second lifting device with a height-adjustable pallet carrying device for an order pallet, wherein the picker carrying device and the pallet carrying device are positionable heightwise relative to the respective

retrieval position independently of one another, and wherein the picker carrying device and the pallet carrying device are positioned horizontally opposite from each other.

Prior Art

Allen

Allen is directed to a material handling apparatus that includes an operator compartment 10 carried on a conventional mast that may be raised/lowered along a main mast M. (See Col. 3, lines 46 – 51.) The apparatus of Allen also has an intermediate carriage 14, as shown in Figure 1 that is laterally shiftable relative to the operator compartment. (See Col. 3, lines 52 – 55.) The rollers 11 on the operator compartment may ride in a channel 14a of the intermediate carriage to permit the intermediate carriage to move laterally. (See Col. 3, lines 55 – 64.) The apparatus of Allen further has a load handler assembly 18 that is carried on the intermediate carriage 14. (See Col. 4, lines 3 – 6.) The load handler assembly has a rotatable mast assembly. As shown in Figure 1, the load handler assembly and its forks can be rotated. The apparatus of Allen is designed to permit the load handling assembly to be moved along the intermediate carriage and then rotated in order to pick up a package.

The operator compartment 10 of Allen is not positionable heightwise relative to the respective retrieval position independently of one another as admitted by the Examiner.

Munten

Munten discloses a dual mast lift truck for unbalanced loads and the like wherein two masts are individually connected to the truck frame in a side-by-side relationship wherein each mast includes a fork that is movable up and down its respective mast. (See Abstract.) The truck has a chassis 12 with a seat 15 for an operator. (See Col. 2, lines 51 – 58.) The chassis is not movable in a vertical position. The two masts 3,4 are movable relative to each other so that heavy, unbalanced loads may be handled. The fork of the masts may be individually raised or lowered. (See Col. 6, lines 4 – 10.) The two independent masts of Munten are used to lift a single unbalanced load. Thus, at most, Munten shows and describes an apparatus in which a single unbalanced load is being lifted using the independently positionable fork of the masts. Munten does not suggest the independent vertical positions of the picker carrying device and the pallet carrying device.

Arguments

Allen and Munten, in combination, do not suggest the invention recited in Claim 1. In particular, Claim 1 recites, in relevant part, a first lifting device with a height-adjustable picker carrying device for the picker and having a second lifting device with a height-adjustable pallet carrying device for an order pallet. Claim 1 further recites that the picker carrying device and the pallet carrying device are positionable heightwise relative to the respective retrieval position independently of one another. As admitted by the Examiner, Allen does not show the independent vertical positioning of the picker carrying device and the pallet carrying device. However, Munten also does not show the independent vertical positioning of the picker carrying device and the pallet carrying device. Munten shows a truck with the independently positionable fork of two masts. However, the forks of the two masts are used to lift and move a single, unbalanced load such as that shown in Figure 6. The two masts are similar to the pallet carrying device. The two masts are not, however, able to independently position a picker carrying device and a pallet carrying device, as claimed.

Furthermore, Munten would not suggest to someone of ordinary skill in the art that the apparatus of Allen could have independently positionable picker carrying device and a pallet carrying device. At most, Munten might suggest that the pallet carrying device recited in the claim might include two masts that permit uneven loads to be moved onto the pallet carrying device. The two masts of Munten also do not achieve the results achieved using the claimed invention. In particular, the two masts of Munten would not reduce the stress and strain on an individual (the picker) during the picking operation which is provided by the independently positionable pallet carrying device and the picker carrying device. Therefore, Claim 1 is not suggested by Allen and Munten and is allowable over the prior art cited by the Examiner.

The dependent claims of the application are also allowable over the prior art cited by the Examiner for at least the same reasons as the independent claims.

Allen and Munten, in combination, also do not suggest the invention recited in new Claim 22. In particular, Claim 22 recites a first lifting device with a height-adjustable picker carrying device for the picker and having a second lifting device with a height-adjustable pallet carrying device for an order pallet. Claim 22 further recites that 1) the picker carrying

device and the pallet carrying device are positionable heightwise relative to the respective retrieval position independently of one another; and 2) the picker carrying device and the pallet carrying device are positioned horizontally opposite from each other. As shown in Figures 1 and 2, the picker carrying device and the pallet carrying device are horizontally opposite from each other as recited in Claim 22. Allen does not disclose or suggest this feature. Munten also does not disclose or suggest this feature wherein the picker carrying device and the pallet carrying device are horizontally opposite from each other as claimed. In addition, Munten does not suggest that Allen could be modified to achieve the claimed invention. Therefore, Claim 22 is allowable over the prior art.

CONCLUSION

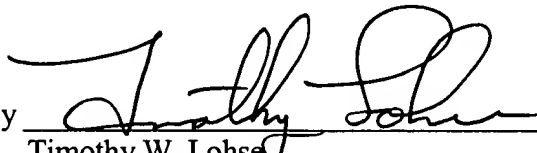
In view of the above remarks, it is respectfully submitted that Claims 1- 20 and 22 are allowable over the prior art for the reasons set forth above. Therefore, early allowance of the claims is requested. If the Examiner feels that a telephone conference with the Applicant's Attorney would be helpful to resolve any remaining issues, the Examiner is invited to call Applicant's Attorney at the number below to discuss this application.

The Commissioner is also authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

GRAY CARY WARE & FREIDENRICH LLP

Dated: August 14, 2002

By 
Timothy W. Lohse
Reg. No. 35,255
Attorney for Assignee

GRAY CARY WARE & FREIDENRICH LLP
1755 Embarcadero Road
Palo Alto, CA 94303-3340
(650) 320-7426

APPENDIX A (Marked-Up Copy of Amended Claims)

2. (Amended) The apparatus according to claim 1, wherein the vehicle further comprises a base on which, viewed in [traveling] traveling direction A, at its one end the first lifting device and at its other end the second lifting device is disposed.

5. (Amended) The apparatus according to claim 1, wherein the vehicle [(10)] is rail-mounted.

11. (Amended) The apparatus according to claim 10, wherein the load receiving means is designed so as to enable transporting of the order pallet at right angles to the [traveling] traveling direction [(A)] of the vehicle.

18. (Amended) The apparatus according to claim 1, wherein the [traveling] traveling movement of the vehicle and the lifting movements of the lifting devices are optionally effected simultaneously.